

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MOON FENTON, M.D.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:21-cv-02790-SHL-tmp
)	
THE WEST CLINIC, PLLC, f/k/a THE)	
WEST CLINIC, PC, d/b/a WEST)	
CANCER CENTER; WEST LEASECO,)	
LLC; WEST DESOTO PARTNERS, LLC;)	
WEST PARTNERS, LLC; WEST UNION)	
PARTNERS, LLC; WEST WOLF RIVER)	
PARTNERS, L.P., f/k/a WEST WOLF)	
RIVER PARTNERS, LLC; WEST)	
CAPITAL, LLC; WEST CLINIC)	
HOLDCO, PC; and WEST EQUITY, LLC,)	
)	
Defendants.)	

**DEFENDANTS' STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

COME NOW Defendants, by and through counsel, pursuant to Rule 56 of the Federal Rules of Civil Procedure, and submit the following Statement of Undisputed Facts in support of their Motion for Summary Judgment:

1. On December 22, 2021, Plaintiff Moon Fenton, M.D. ("Plaintiff"), filed her Complaint against The West Clinic, PLLC, f/k/a The West Clinic, P.C., d/b/a West Cancer Center ("West Clinic"), West Leaseco, LLC, West DeSoto Partners, LLC, West Partners, LLC, West Union Partners, LLC, West Wolf River Partners, L.P., f/k/a West Wolf River Partners, LLC, West Capital, LLC, West Clinic HoldCo, P.C., and West Equity, LLC (collectively the "Defendants"). (See generally Compl.)

2. Plaintiff began her employment with West Clinic in 2012 and was employed there until July 31, 2020, at which time she voluntarily terminated her employment. (Compl. ¶ 13.)

3. Plaintiff was voted in as a shareholder in January 2015, and began attending shareholder meetings in February 2015. She attended shareholder meetings throughout her ownership of Defendants. (Answer ¶ 19; M. Fenton Dep. 94:11-16, 108:24-109:14, portions cited herein collectively attached hereto as **Exhibit A**.)

4. At shareholder meetings, West Clinic's financial information was routinely presented to the shareholders by the Chief Financial Officer. (M. Fenton Dep. 109:24-110:11.)

5. Plaintiff alleges she had a "simple" oral contract as a new shareholder that included a \$500,000 "buy in" to be paid over five (5) years through deduction from her bonus in a depreciating manner beginning with 80% in the first year, 60% in the second year, 40% in the third year, and 20% in the fourth year. She further alleges the oral contract terms included that her bonuses would be calculated the same as other shareholders and she would receive the paid amount back as a "buy out" upon her termination. (Compl. ¶¶ 21-27, 47-50, 171-74; M. Fenton Dep. 20:24-21:10, 66:4-69:9.)

6. There was not a written agreement or contract containing the terms Plaintiff has alleged were orally promised to her as a new shareholder. (Compl. ¶ 48-49; M. Fenton Dep. 21:12-22:1, 24:15-24:4, 66:14-16, 69:11-13, 82:14-85:2.)

7. Plaintiff began receiving bonuses as a shareholder in 2015, and amounts were held out of those bonuses over the course of five years. (Compl. ¶ 51.)

8. At the invitation of Erich Mounce, Chief Executive Officer of West Clinic, Plaintiff met with Mr. Mounce in January 2016 to discuss the shareholder compensation model. (M. Fenton Dep. 260:18-265:4; Email, WEST000186-187, attached hereto in collective **Exhibit B**.)

9. Plaintiff asked questions of Mr. Mounce regarding her bonus calculation via email, following the January 2016 meeting. (M. Fenton Dep. 261:18-265:18; Email, WEST000187.)

10. Plaintiff met with Erich Mounce, Kurt Tauer, and Lee Schwartzberg in December 2016 regarding her bonus for 2016. (M. Fenton Dep. 259:1-6; Email, WEST000188, attached hereto in collective Exhibit B.)

11. After the December 2016 meeting, Plaintiff questioned the amount of her bonus as compared to the projection and asked for an explanation. In response, Mr. Mounce sent a spreadsheet via email to Plaintiff showing Plaintiff her 2016 bonus calculation, with the note “for our discussion.” (Email and attachment, WEST000188, 000230, attached hereto in collective Exhibit B.)

12. Thereafter, in early 2017 Plaintiff and Mr. Mounce had a phone conversation during which Mr. Mounce provided an explanation of Plaintiff’s 2016 bonus calculation. Plaintiff took notes on the calculation. (M. Fenton Dep. 168:6-169:18, 232:7-16, 269:9-271:4; Pl.’s Resp. to Defs.’ Interrog. Nos. 2(4) & 8, attached hereto as **Exhibit C**; Compl. Ex. 9.)

13. In 2016, Plaintiff knew that that she was not paid \$448,000 of her 2019 bonus calculation and she had a suspicion that by that time, she had not been paid more than \$500,000 of her bonus calculation. (M. Fenton Dep. 215:22-216:17; Compl. Ex. 9.)

14. In August 2018, Plaintiff attended a shareholder meeting at which the Methodist unwind was discussed. Specifically discussed during that meeting was the plan for West Clinic to buy back its assets, including the West Cancer Center building. (M. Fenton Dep. 95:2-96:2; Aug. 2018 Minutes, attached hereto as **Exhibit D**.)

15. Plaintiff also heard in November or December 2018 during shareholder meetings that West Clinic did not own real estate or other assets at the time she became a shareholder. (Pl.'s Resp. to Defs.' Interrog. No. 12.)

16. After Plaintiff's termination, the regularly employed accountants for Defendants determined there was no value to West Clinic and West Clinic Holdco. (R. Evensky Dep. 16:22-17:7, 18:5-6, cited portions attached hereto as **Exhibit E**.)

Respectfully submitted,

BLACK MCLAREN JONES RYLAND & GRIFFEE, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of January, 2023, the foregoing was served via the Court's ECF system on the following counsel of record:

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